



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 03/16/04
AGENDA ITEM 6
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Participation in Lawsuit Challenging State Action Concerning Local Sales Tax

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution authorizing Hayward to participate in a lawsuit challenging state action concerning local sales tax, and appropriating \$16,000 for this purpose.

BACKGROUND:

As the Council is aware, the sales tax levied in Alameda County comprises both a state component and a local component. The State portion is six percent, while the local portion is one percent. Last year, to address the state budget problem, the Legislature adopted and Governor Davis signed legislation calling for the issuance of nearly \$11 billion in bonds. The State devised a multi-step process (frequently called the "triple-flip") to identify a dedicated revenue stream to repay the new debt. Specifically, as part of this legislation, the State:

- Reduced the local portion of the sales tax by one-half, to a new local rate of .5%, and diverted this amount to a special state fund to repay the bonds;
- Increased the amount of property taxes going to local agencies to offset the loss of sales tax revenue;
- Increased general fund revenue to schools from an unnamed source to make up for the reduction of revenue in the ERAF account.

Proposition 57 on the March ballot continued the foregoing with two notable changes. First, the amount of the bonds increased from about \$11 billion to \$15 billion. Second, the diversion of sales tax was reduced: the diverted rate will now be one-quarter rather than one-half. Proposition 57 provided more time in which to repay the bonds. It is now estimated the bonds will be repaid in between 9 and 14 years, instead of the 5 years previously authorized.

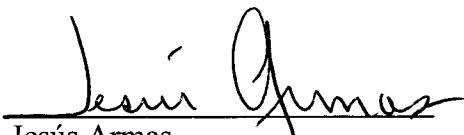
The City of Cerritos has filed a lawsuit challenging the ability of the State to shift (takeaway) the local portion of the sales tax rate as mentioned above. Cerritos, like Hayward, is a charter city, and it is asserting that the action of the State is an unconstitutional limitation on the power of charter cities ("home rule"). In general, the lawsuit asserts that the triple-flip interferes with the

power of a charter city to raise revenue for a local purpose. The lawsuits seeks to establish the constitutional principle that charter cities control the level of services to be provided at the local level, and as such control local revenues to fund these services.

Clearly, sales tax revenue is key to our ability to render services to Hayward residents. Today, about forty percent of the general fund is attributable to sales tax revenue, while about twenty percent relates to property tax income. Although it has been represented that local agencies will be kept whole—that is, sufficient property tax revenue will be provided to offset the reduction in sales tax dollars—past state action casts doubt on such a commitment.

For this reason, we believe it is appropriate to join Cerritos in this effort to safeguard local revenues from the state. Although the lawsuit focuses on charter cities, general law cities have been invited to participate as well. As of this writing, a total of 31 charter cities and seven general law cities have agreed to participate in the lawsuit. To pay for the cost of the lawsuit, a financial contribution has also been requested.

While Cerritos is spearheading the lawsuit, it is seeking financial support from the other cities (co-plaintiffs) that will join in this lawsuit. For Hayward this would amount to \$16,000. We believe this is a worthwhile investment to safeguard not just the principle of “home rule”, but a vital local revenue source as well. Adoption of the attached resolution is therefore recommended.


Jesús Armas
City Manager

Attachment

DRAFT

NH 3/11/04

HAYWARD CITY COUNCIL

RESOLUTION NO. 04-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY OF HAYWARD'S
PARTICIPATION IN THE LAWSUIT CHALLENGING
STATE ACTION ("TRIPLE-FLIP LEGISLATION")
CONCERNING LOCAL SALES TAX

WHEREAS, in 2003 the Legislature adopted and Governor Davis signed legislation calling for the issuance of bonds in order to address the State budget problem; and

WHEREAS, the legislation developed a multi-step process (the "triple-flip") to identify a dedicated revenue stream to repay the new debt, which includes reducing the local portion of the sales tax and diverting that amount to a special State fund to repay the bonds; and

WHEREAS, the City of Cerritos filed a lawsuit challenging the ability of the State to shift the local portion of the sales tax rate, asserting that the action of the State is an unconstitutional limitation on the power of the charter cities; and

WHEREAS, the lawsuit filed by the City of Cerritos seeks to establish the constitutional principle that charter cities control the level of services at the local level, and thus control local revenue to fund these services; and

WHEREAS, the City of Cerritos has requested contribution of \$16,000 from each city desiring to join in the lawsuit in order to pay for the cost of the lawsuit.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Hayward hereby authorizes the City of Hayward's participation in the lawsuit filed by the City of Cerritos challenging State action concerning local sales tax, and to contribute the sum of \$16,000 to pay for the lawsuit.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

04
3/11/04

HAYWARD CITY COUNCIL

RESOLUTION NO. 04-

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 03-091, AS
AMENDED, THE BUDGET RESOLUTION FOR FISCAL
YEAR 2003-2004, RELATING TO AN APPROPRIATION
OF FUNDS TO PARTICIPATE IN THE LAWSUIT
CHALLENGING STATE ACTION CONCERNING
LOCAL SALES TAX

BE IT RESOLVED by the City Council of the City of Hayward that
Resolution No. 03-091, as amended, the Budget Resolution for fiscal year 2003-2004, is
hereby amended by approving a re-appropriation of \$16,000 from the General Fund
Undesignated Fund Balance to the General Fund to participate in the lawsuit challenging
state action concerning local sales tax.

IN COUNCIL, HAYWARD, CALIFORNIA March 16, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward